

Regular Session, May 7, 2012, 9:30 a.m.  
Catawba County Board of Commissioners

**Closed Session**

Personnel Matter	551	05/07/12
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**Finance**

Catawba Valley Behavioral Healthcare (CVBH) Lease	543	05/07/12
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**Mental Health Partners**

Approval of Formal Merger Agreement for Partners Behavioral Health Mgmt	545	05/07/12
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**Proclamations**

National Emergency Services Week	542	05/07/12
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**Public Comments for Items Not on the Agenda**

Dwight Herman	541	05/07/12
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Larry Pope	542	05/07/12
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**Tax**

Piggyback Exception to Purchase Property Appraisal (CAMA) and Land Records System	542	05/07/12
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The Catawba County Board of Commissioners met in regular session on Monday, May 7, 2012 at 9:30 a.m. in the Robert E. Hibbitts Meeting Room of the 1924 Courthouse, 30 North College Avenue, Newton, North Carolina.

Present were Chair Katherine W. Barnes, Vice-Chair Lynn M. Lail and Commissioners Dan A. Hunsucker, Barbara G. Beatty and Randy Isenhower.

Also present were County Manager J. Thomas Lundy, Assistant County Manager Dewey Harris, Assistant County Manager Mary Furtado, County Attorney Debra Bechtel and County Clerk Barbara Morris.

1. Chair Katherine W. Barnes called the meeting to order at 9:30 a.m.
2. Commissioner Randy Isenhower led the Pledge of Allegiance to the Flag.
3. Chair Barnes offered the invocation.
4. Commissioner Dan Hunsucker made a motion to approve the minutes from the Board's Regular Meeting of April 16, 2012. The motion carried unanimously.
5. Recognition of Special Guests: Chair Barnes welcomed everyone present.
6. Public Comments for Items Not on the Agenda:

Dwight Herman came forward to request the Board review the County's zoning ordinances regarding setback requirements for building on properties which contain or are adjacent to cemeteries. The property at issue is within the City of Newton and falls under that City's zoning ordinance but Mr. Herman was requesting the County review its zoning ordinances and address the setbacks in these situations so that this did not become an issue in the future for another family. Planning, Parks and Development Director Jacky Eubanks advised the Board that at the current time the County's zoning ordinances did not address setbacks for cemeteries. Chair Barnes directed staff to research possible setback requirements regarding such properties and bring a recommendation back to the Board. County Manager Tom Lundy asked if Mr. Herman had addressed Newton City Council and when Mr. Herman

indicated he had not done so, Mr. Lundy suggested that he advise the Council of his concerns so it could also review the City's zoning ordinances in respect to these setback requirements.

Larry Pope came forward and requested the Board commit to having an early voting site in Hickory for the elections in November 2012. Due to a shortage of funding, there had been only one early voting site for the May 8<sup>th</sup> Primary and that was located in the Main Library in Newton. Mr. Pope felt that this had caused a hardship for people in Hickory and for those who were dependent on public transportation. County Manager J. Thomas Lundy stated that the concern had been brought to the Board members' attention and there would be an early voting site in Hickory for the November elections.

Mr. Pope presented a second concern regarding the Greenway Transportation System. He had experienced several times when the bus did not make its scheduled pickup and when he contacted Greenway, dispatchers were unable to reach the drivers to determine their locations. He continued on to say the new shelters that were being installed throughout the system failed to provide protection from the elements. County Manager Lundy, who represents Catawba County on Greenway Transportation's seven member Board, said he would look into the dispatch problems and the protection provided by the new shelters.

7. Presentation:

Vice-Chair Lynn Lail presented EMS Training Officer Andrew Wright with a proclamation recognizing May 20-26, 2012, as Emergency Medical Services Week. The proclamation commended Emergency Medical Services for providing lifesaving care for those in need, twenty-four hours per day, seven days a weeks, and spotlights the benefits Americans receive from these highly trained, knowledgeable individuals and the reduction in national health care costs resulting from these services.

8. Appointments:

Commissioner Hunsucker recommended the appointment of John Dollar for an unexpired term in the citizen member category on the Public Health Board. Mr. Dollar's term will expire June 30, 2013. This recommendation came in the form of a motion. The motion carried unanimously.

9. Consent Agenda:

County Manager J. Thomas Lundy presented the following two items on the consent agenda:

a. A request to authorize the piggyback exception as outlined in North Carolina General Statute 143-129(g) for the purchase of a Property Appraisal and Land Records system in the amount of \$539,525 including software and implementation services, to Tyler Technologies, Incorporated.

The CAMA system currently used by the County provides property valuations for more than 86,000 parcels of real property within the County and has been used and updated for more than 20 years. It provides limited functionality that has created inefficient work flows and is not compatible with other County systems. The system is no longer sold and updates will not be available in the future. The County's next four year revaluation is scheduled to go into effect on January 1, 2015. Due to an estimated software conversion time of nine to twelve months, a new solution needs to be in place by late 2012 or early 2013 to provide adequate time for completion of the 2015 revaluation. Based on these factors, during July 2011, staff began the process of finding a replacement product by evaluating several systems used by other counties with a focus on North Carolina requirements. Three of the systems appeared to be viable candidates: NCPTS Land Records and CAMA system by Farragut Solutions; Patriot AssessPro by Patriot Properties; and iasWorld by Tyler

Technologies. After viewing demonstrations of each product, checking with current customers and receiving informal quotes for each of the systems, it was determined that iasWorld by Tyler Technologies offered the solution that best meets the overall requirements of Catawba County for now and into the future.

In order to stay on schedule with the 2015 revaluation calendar, a decision was made to pursue a piggyback of a contract awarded to Tyler Technologies from Loudon County, Virginia in January 2012, for the iasWorld system. State law allows local governments to purchase without a separate bidding procedure from any contractor that has, within the past 12 months, contracted to furnish the item to (1) the federal government or any federal agency; (2) the State of North Carolina or any agency or political subdivision of that state, or (3) any other state or agency or political subdivision of that state, if the contractor is willing to extend the same or more favorable price and other terms to the local government. The Board must award the contract at a regularly scheduled meeting and notice of the intent to award the contract without bidding must be published no less than 10 days prior to the meeting at which the contract is awarded.

The existing project account has a current balance of \$195,025. The additional recommended Capital Projects budget for fiscal year 2012/13 is \$350,000 for a total of \$545,025 projected as available funds. Staff does not expect the total expenditures for this fiscal year to exceed \$195,025. According to North Carolina General Statute 153A-13, "a county may enter into continuing contracts, some portion or all of which are to be performed in ensuing fiscal years. In order to enter into such a contract, the county must have sufficient funds appropriated to meet any amount to be paid under the contract in the fiscal year in which it is made. In each year, the Board of Commissioners shall appropriate sufficient funds to meet the amounts to be paid during the fiscal year under continuing contracts previously entered into."

**B.** A request for the Board to approve the renewal of a lease with Catawba Valley Behavioral Healthcare for the Lifeskills facility located behind Catawba County Public Health. As Catawba County's Mental Health Board implemented the State's Mental Health Reform Act, it formed a non-profit organization, Catawba Valley Behavioral Healthcare (CVBH), to deliver comprehensive services to adults with serious conditions of mental illness and developmental disabilities. It was designed to provide the crisis interventions, short and long-term supports, and treatments necessary to effectively sustain this targeted population. Its formation included outpatient, day treatment and residential services to assure a continuity of care and an integration of those services that clinically belong together. As a freestanding non-profit organization, CVBH has taken on the responsibility of a major portion of high-risk services that had been previously operated by the public sector, through a contractual arrangement with the County.

With the divestiture of Mental Health services by the State of North Carolina, CVBH began leasing the former Mental Health main building and the adjacent Lifeskills facility in January 2007. Since that time, CVBH has been recognized for providing valuable services for Catawba County citizens who struggle with matters of mental illness and developmental disabilities. In 2010, CVBH moved from the former Mental Health main building into its own facility in Hickory, but continues to lease the County's Lifeskills facility to provide some of those services. This current lease is set to expire on June 30, 2012. The following lease applies:

STATE OF NORTH CAROLINA  
COUNTY OF CATAWBA

LEASE AGREEMENT

THIS AGREEMENT OF LEASE made this \_\_\_\_ day of April, 2012, by and between Catawba County, a political subdivision of the State of North Carolina, hereinafter called Lessor, and Catawba Valley

Behavioral Healthcare, a non-profit 501 (c)(3) agency organized and operated under the provisions of the Internal Revenue Code of 1954, hereinafter called Lessee.

WITNESSETH, that in consideration of the rent and covenants herein contained on the part of Lessee to be paid and performed, Lessor does hereby demise and lease unto Lessee one building containing approximately 14,280 square feet of space located at 3060 11<sup>th</sup> Avenue Drive SE, Hickory, North Carolina ("Lifeskills") with the adjoining parking lot including 41 dedicated parking spaces, said property being part of Parcel Identification Number 3722-1562-3515 and recorded in Deed Book 757 at Page 119 in the Catawba County Registry; and specifically identified on Attachment "A" to this Agreement, hereinafter called the "Demised Premises", together with any improvements thereon.

TO HAVE AND TO HOLD for one term of thirty-six (36) months, commencing on the 1<sup>st</sup> day of July, 2012, and ending June 30, 2015.

This Lease is made upon the following terms and conditions:

- a. Lessee shall pay to Lessor the sum of \$5,712 per month, which equals \$4.80 per square foot. All rental payments shall be payable by Lessee to Lessor by the 1<sup>st</sup> of each month during the term of this Agreement. Throughout the term of this Lease Agreement, the rental rate may be periodically reviewed and is subject to change as determined by the County Manager or his designee based upon annual costs associated with operations and maintenance of the facility.
- b. Lessee shall indemnify and save Lessor harmless from and against any liability for personal injury or property damage arising from Lessee's use or occupation of the Demised Premises, including specifically liability for any personal injury or property damage suffered or allegedly suffered by employees, members, guests, business invitees or social invitees of Lessee. Lessee shall also assume the burden and expense of defending all legal actions, whether brought before the expiration of this Lease or thereafter, which are commenced to recover for injuries occasioned by such accidents. This obligation of Lessee shall extend to both injuries to persons and to property, and shall extend to claims arising from such accidents which are either valid or groundless.
- c. Lessee agrees and is solely responsible for all expenses and costs related to utilities and cleaning services.
- d. Lessor shall provide full maintenance of the building and the surrounding grounds including the attached parking lot. Full maintenance shall include responsibility for all permanent aspects of the building including: paint, carpet, fixtures, HVAC, plumbing, lighting, snow removal and parking lot maintenance. Lessee shall negotiate with the Catawba County Maintenance Department a schedule for a mutually assessed need for painting and/or carpet replacement. Any alterations to the building shall be requested to, and approved by, the Catawba County Maintenance Department supervisors.
- e. Lessor shall continue to provide security through Catawba Valley Medical Center to the Demised Premises.
- f. Lessee and Lessor will negotiate and agree on services and costs related to those services for network support provided to Lessee by Lessor. The resulting network support agreement between the parties will be formalized in a separate written document and attached hereto. Said agreement shall be referenced and incorporated herein.
- g. Lessee shall use the Demised Premises for the purposes set out in its Articles of Incorporation, construed, applied and carried out in accordance with 501 (c)(3) of the Internal Revenue Code of 1954. Lessee agrees that this Lease Agreement is subject to the condition that the Demised Premises be used by the Lessee for the specific purpose of providing mental health services.
- h. Lessee agrees that it will not assign this Lease or sublet all or any portion of the Demised

Premises without the express written consent of Lessor.

i. Lessor shall continue to provide insurance coverage for the real property that is the subject of this agreement. Lessee shall provide liability insurance including coverage for all contents and personal property located within the Demised Premises and to cover any incident of personal injury that may occur on the property.

j. If Lessee shall fail to comply with any other provision or condition of this agreement upon its part to be kept and performed, or if Lessee shall file for bankruptcy, or shall make an assignment for the benefit of creditors, or if a receiver of any property of Lessee in or upon the Demised Premises be appointed by any action against Lessee, and such action shall not be vacated or annulled within sixty (60) days, it shall be lawful for Lessor to re-enter the Demised Premises, and again possess same as if this Lease had not been made, and all improvements to said real property shall become the property of the County, and everything herein contained on the part of Lessor to be done and performed shall cease and determine without prejudice.

k. Either party may terminate this agreement by providing no less than ninety (90) days written notice to the other party.

l. For all purposes hereunder, including payment of rental, the address of the parties hereto are as follows:

Lessor: Catawba County  
c/o Rodney N. Miller, Finance Director  
PO Box 389  
Newton, North Carolina 28658

Lessee: Catawba Valley Behavioral Healthcare  
c/o John M. Waters, Executive Director  
327 1<sup>st</sup>. Ave NW  
Hickory, North Carolina 28601

m. It is expressly understood and agreed by and between the parties hereto that this Lease sets forth all the promises, agreements and understandings between them.

n. This Lease, and all covenants, provisions and conditions herein contained shall inure to the benefit of and be binding upon the parties hereto, their respective heirs, executors, administrators and assigns.

IN WITNESS WHEREOF, the parties hereunto have set their hands the day and year above first written.

#### CATAWBA COUNTY BOARD OF COMMISSIONERS

Chair Barnes asked if any Commissioner wished for an item to be broken out of the consent agenda. None were requested. Vice-Chair Lail made a motion to approve the consent agenda. The motion carried unanimously.

#### 10. Departmental Report:

##### Mental Health Partners:

Mental Health Partners Area Director John Hardy presented a request for the Board to endorse a formal Merger Agreement for the formation of Partners Behavioral Health Management. At its October 3, 2011, meeting, the Board adopted an "Intent to Merge Agreement" which outlined the intentions of Mental Health Partners to join with Crossroads and Pathways Local Managing Entities (LMEs) to form a single managing entity for the purposes of overseeing the delivery of mental health, developmental disability, and

substance abuse services to the citizens of the eight counties of Catawba, Surry, Yadkin, Iredell, Burke, Lincoln, Gaston, and Cleveland. This was a joint response to action by the North Carolina General Assembly that requires Local Managing Entities to serve a population of at least 500,000 people by July 1, 2012. This merger will result in a population of 906,746 with approximately 140,000 Medicaid covered lives. This merger is also the basis for this new entity to perform as a Managed Care Organization and its being a Medicaid 1915 (b) (c) Waiver program, effective January 1, 2013. In response to a Request for Application to operate a merged waiver site, the State has approved the submitted plan. Mr. Hardy stated he believed this merger would ensure that recipients of these services would get what they needed for the right reason, for the right duration, and at the right cost.

This formal Merger Agreement is the final document that completes the process to merge these three LMEs into one new entity known as Partners Behavioral Health Management or Partners BHM. The content of this agreement is very similar to the "Intent to Merge Agreement" with language being more final in nature. Each of the respective LME Boards has approved this document and is in the process of seeking endorsement from the respective eight counties' Boards of Commissioners.

Commissioner Isenhower, who is a member of the Partners Behavioral Health Management Board, stated that all who were involved with this merger had done a tremendous job. He indicated that hiring had already begun and the new Board had already had an informal meeting and it had gone well. Chair Barnes echoed Commissioner Isenhower's praises for the smooth transition and the commitment of all involved.

Commissioner Isenhower made a motion to endorse the formal Merger Agreement for transmittal to the State. The motion carried unanimously. The following agreement applies:

**MERGER AGREEMENT  
BETWEEN CROSSROADS BEHAVIORAL HEALTHCARE AND  
MENTAL HEALTH PARTNERS  
AND  
THE GASTON-LINCOLN-CLEVELAND AREA MENTAL HEALTH  
DEVELOPMENTAL DISABILITIES/SUBSTANCE  
ABUSE AUTHORITY (d/b/a PATHWAYS)**

**WHEREAS**, Crossroads Behavioral Healthcare is currently established as a multi-county area mental health, developmental disabilities, substance abuse authority and local management entity (hereinafter referred to as "Crossroads"); and

**WHEREAS**, Mental Health Partners is currently established as a multi-county area mental health, developmental disabilities, substance abuse authority and local management entity (hereinafter referred to as "MHP"); and

**WHEREAS**, Gaston-Lincoln-Cleveland Area Mental Health Developmental Disabilities/ Substance Abuse Authority is currently established as a multi-county area mental health, developmental disabilities, substance abuse authority and local management entity (hereinafter referred to as "Pathways"); and

**WHEREAS**, Crossroads serves the counties of Iredell, Surry and Yadkin and its Board is appointed by the respective Boards of Commissioners from these counties; and

**WHEREAS**, MHP serves the counties of Burke and Catawba and its Board is appointed by the respective Boards of Commissioners from these counties; and

**WHEREAS**, Pathways serves the counties of Cleveland, Gaston and Lincoln and its Board is appointed by the respective Boards of Commissioners from these counties; and

**WHEREAS**, Crossroads, MHP and Pathways have been approved by the State of North Carolina to begin operating under North Carolina's 1915(b)/(c) Medicaid Waiver Program beginning no later than January 2013 which necessitates a merger of the three (3) local management entities ("LME's"); and

**WHEREAS**, all parties' goals can best be realized by expanding their "Catchment Areas" (meaning the counties served), consolidating operations and merging to be effective on July 1, 2012; and

**WHEREAS**, in order to further the implementation of certain business operations and plan for governance structure and human resource needs, the three (3) LME's and all counties in the Catchment Areas entered into an Intent to Merge Agreement dated November 1, 2011 setting forth their intent to merge and their agreement on certain decisions in order to facilitate the subsequent merger; and

**WHEREAS**, since Crossroads, MHP and Pathways have successfully worked together since the date of the Intent to Merge Agreement and whereas all parties' goals can best be realized by expanding their catchment areas, the parties have now concluded that it is in their best mutual interests to merge;

**NOW, THEREFORE**, in consideration of the mutual promises and consideration set forth in this Agreement, the parties commit themselves to the following:

1. **PURPOSE**. The intent of this merger between Crossroads, MHP and Pathways is to assure the provision of high quality, cost effective mental health, developmental disabilities and substance abuse services to priority consumers who are citizens of Gaston, Cleveland, Lincoln, Iredell, Surry, Yadkin, Burke and Catawba Counties.

2. **SURVIVING ENTITY**. Pathways shall be the legal, surviving entity. The name of Pathways shall be changed to Partners Behavioral Health Management ("Partners BHM") and the bylaws amended contemporaneously with or after this merger.

3. **BOARD OF DIRECTORS**.

(a) The surviving entity shall be governed by a Board of Directors.

(b) The Board of Directors shall consist of up to twenty-six (26) members (twenty-five (25) members appointed by the county commissioners and one (1) CFAC representative) with the ability to increase the membership of the Board as needed in order to assure that each county in the Catchment Area has at least two (2) members. The number of members from each county shall be determined by the percentage of each county's population compared to the total population of the Catchment Area. (Ex. county population ÷ total population will serve to determine percentage of board members out of 25 members). The

number of members per county will be adjusted every three (3) years based on any population changes. The population numbers used will be those numbers as published by the North Carolina Department of Health and Human Services.

(c) The chair of the merged entity's Consumer and Family Advisory Committee (CFAC) shall be a member of the Board of Directors by virtue of his or her position.

(d) The members (other than the CFAC chair) shall be chosen by the appointing commissioner(s) from each respective county. A representative listing of the makeup of the initial Board of Directors is attached as Exhibit A.

(e) The existing Boards of Directors for Crossroads, MHP and Pathways shall resign, or in the absence of such resignation, is deemed to have resigned, such resignations to be effective immediately upon the effective date of the merger, which is July 1, 2012.

(f) Initial appointments to the Partners BHM Board shall be staggered with eight (8) positions to serve an initial one (1) year term, eight (8) positions to serve an initial two (2) year term, and nine (9) positions to serve a three (3) year term. The classes of Board positions will be as shown on Exhibit B attached hereto and incorporated herein by reference.

4. **FUNDS REMAINING IN INTERIM FUNDING ACCOUNT.** A merger/ implementation fund account of approximately \$6 million dollars was established and funded by the three LME's. The merger/ implementation fund was utilized in order to cover costs incurred. Any remaining funds in this account shall become the property of Partners BHM.

5. **PRINCIPAL OFFICE AND LOCAL PRESENCE.** The principal office of the merged entity shall be located at 901 S. New Hope Road, Gastonia, NC 28054. The current local offices of the three (3) LME's will be maintained for the time being utilizing a hub and spoke operations method. Management will determine which functions will best be handled at a centralized site with others decentralized at "spoke" locations.

6. **EMPLOYEES.** Inasmuch as Crossroads and MHP will no longer exist as of midnight on June 30, 2012, the current employment of any personnel of the two (2) LME's will cease. Many of these employees will be hired by Partners BHM as of the effective date of the merger with such personnel action to be handled on an individual basis. The employees of Pathways shall also need to seek employment opportunities prior to the merger in order to secure positions with Partners BHM.

7. **ASSETS.**

(a) **Assets and Fund Balances.** All assets and fund balances, designated or undesignated, currently owned and used by Crossroads and MHP will be transferred to Pathways as the surviving entity which shall be known as Partners BHM at the effective date of merger.

(b) **Assets Upon Dissolution.** In the event that Partners BHM is dissolved, ceases to function or upon the withdrawal of a county from the catchment area at any time in the future, the net assets after payment of liabilities, shall be distributed in accordance with North Carolina General Statutes § 122C-115.3(e). This statute specifies that any budgetary surplus shall be distributed to those counties comprising the area authority on the same pro rata basis that the counties appropriated and contributed funds to the area authority's budget during the current



fiscal year. The same method of distribution of funds shall apply when one or more counties of an area authority withdraw.

(c) Real Estate. All real estate currently owned by Crossroads, MHP and Pathways shall be vested in the surviving entity, Partners BHM, as of the effective date of the merger. Partners BHM is authorized to hold title to all real estate and is authorized to determine how to use the proceeds in the event the real estate is later sold. In the event that Partners BHM is dissolved or ceases to function at any time in the future and has not disposed of any parcel of real estate, title shall vest as follows:

(i) if the real estate is located in the previous Pathways catchment area of Gaston, Lincoln and Cleveland counties, title to the real estate shall vest in the county where the real estate is located;

(ii) if the real estate is located in the previous MHP catchment area of Burke and Catawba counties, title to the real estate shall vest in the county where the real estate is located;

(iii) if the real estate is located in the previous Crossroads catchment area of Iredell, Surry and Yadkin counties, title to the real estate shall vest in the county where the real estate is located; and MHP and the counties in the Catchment Area or any other lessor will be assigned to the surviving entity on the currently existing terms to the extent permitted by the current lease and determined to be needed by the management of Partners BHM.

(e) Personal Property. All personal property presently belonging to or used by Crossroads and MHP specifically including but not limited to, equipment, vehicles, fixtures and inventory shall be transferred to the surviving entity pursuant to a Contract of Conveyance/Assignment/Bill of Sale. The Contract of Conveyance/Assignment/Bill of Sale shall be executed by the appropriate officials of Crossroads, MHP and Pathways.

(f) Equipment Leases. Any equipment leases to which Crossroads and MHP are presently a party shall be assigned, as deemed necessary, to the surviving entity.

8. **LIABILITIES**. Any liability of Crossroads and MHP arising prior to the merger, existing at the time of this merger, or coming into existence after the merger shall become the responsibility of the surviving entity; provided, however, this transfer of liabilities shall not impact any possible insurance coverage, any dispute or defense as to the validity of the liability with any third party or any assertion of immunity available as a defense against any third party. It is not the intent of Partners BHM to contract away or waive its sovereign immunity by entering into this Agreement as against claims made by third parties.

9. **COUNTY APPROPRIATIONS**. The Board of County Commissioners of each of the counties in the Catchment Area agree to use their best efforts to continue the current level of funding and to fund increases where the Commissioners deem appropriate in order to effectively provide mental health, developmental disability and substance abuse services throughout the combined catchment area.

10. **COVENANT OF PARTNERS BHM**. Partners BHM, as the surviving entity, will use its best efforts to provide delivery of high quality mental health, developmental

disabilities and substance abuse services to residents of the Catchment Area within existing finances after the effective date of merger.

11. **CATCHMENT AREA.** The Catchment Area for the surviving entity shall be comprised of the Counties of Iredell, Surry, Yadkin, Burke, Catawba, Cleveland, Gaston and Lincoln.

12. **PENDING LITIGATION.** Crossroads and MHP specifically affirm and warrant that there are no pending litigation matters, with the exception of *Barnette v. Barium Springs Home for Children and Crossroads* at the time of the merger for which the surviving entity could become liable.

13. **EMPLOYMENT PRACTICES.** To the best of their reasonable knowledge and belief, Crossroads and MHP are presently in compliance with all federal, state and local laws and regulations with respect to employment and employment practices, terms and conditions of employment wages and hours.

14. **WAIVER.** The failure of a party to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a future waiver of the term or deprive that party of its right thereafter to insist upon strict adherence to that term or any other term of this Merger Agreement. Any waiver must be in writing, and no waiver of any breach of any provision of Agreement shall constitute a waiver of any other breach of such provision or of any other provision thereof.

15. **ENTIRE AGREEMENT.** This Merger Agreement constitutes the entire agreement between the parties as of the date hereof with respect to the subject matter hereof and cannot be amended or terminated orally. All prior agreements, understandings, representations and statements, whether oral or written, are merged into this Agreement.

16. **SEVERABILITY.** The parties agree that if any provision of this Agreement, or portion thereof, shall be adjudged by any court of competent jurisdiction to be invalid or unenforceable for any reason, such determination shall be confined to the operation of the provision at issue and shall not affect or invalidate any other provision of this Merger Agreement, and such court shall be empowered to substitute, to the extent enforceable, provisions similar thereto or other provisions so as to provide to the fullest extent permitted by applicable law the benefits intended by such provisions.

17. **SECTION HEADINGS.** Section headings contained in this Merger Agreement are included for convenience only and do not define, limit or describe the scope or intent of this Merger Agreement or in any way affect this Merger Agreement.

18. **APPLICABLE LAW.** This Agreement shall be construed in accordance with, and governed by, the laws of the State of North Carolina.

19. **EXECUTION.** The parties agree to execute all documents, instruments or further assurances as may be necessary or required to effectuate and complete all transactions contemplated by this Agreement.

20. **MULTIPLE ORIGINALS.** This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and it shall not be necessary to make any proof of this Agreement to produce or account for more than one such counterpart.

21. **SURVIVAL.** The representations, warranties and indemnifications made by any party to this Agreement shall survive the merger of the parties. The representations, warranties and indemnifications hereunder shall not be affected or diminished by any investigation at any time by or on behalf of the party for whose benefit the warranties and representations were made. For purposes of this paragraph, the contract shall be construed as a continuing contract so as to bind future boards to the extent permitted by law.

22. **EFFECTIVE DATE.** The effective date of the Merger Agreement will be July 1, 2012.

This the \_\_\_\_ day of \_\_\_\_\_, 2012.

This document is being pre-audited in the manner required  
by the local government Budget and Fiscal Control Act

11. Other Items of Business: None.
12. Attorney's Report: None.
13. Manager's Report.  
County Manager Lundy requested the Board consider moving into Closed Session pursuant to General Statute 143-318.11(a)(6) to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee. He anticipated no action would be taken upon return of the Board to open session. Commissioner Barbara Beatty made a motion to move into Closed Session at 10:07 a.m. The motion carried unanimously.
14. Adjournment. The Board returned to open session. No action was taken. Commissioner Isenhower made a motion to adjourn at 10:21 a.m. The motion carried and the meeting was adjourned.

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Katherine W. Barnes, Chair  
Catawba County Board of Commissioners

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Barbara E. Morris  
County Clerk